

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-18-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that the group therapeutic procedures, joint mobilization, Myofascial release, and therapeutic exercises rendered from 6/19/03 through 6/20/03 **were found** to be medically necessary. The office visits on 6/19/03, 6/20/03, 6/27/04, 7/18/03, 7/25/03, and 7/31/03 **were found** to be medically necessary. The myofascial release, therapeutic exercises, group therapeutic procedures, joint mobilization, electrical stimulation, diathermy, massage therapy, and TENS consumable supplies, and office visits rendered from 6/27/03 through 7/31/03 (except those outlined above) **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 18, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 99080-73 for date of service 6/27/03 was denied by the carrier with "F"-fee guideline reduction, however, no payment was made. The Medical Review Division has jurisdiction in this matter and, therefore, **recommends reimbursement** in the amount of \$15 in accordance with the 1996 Medical Fee Guidelines.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 6/19/03 through 7/31/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 4<sup>th</sup> day of October 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

RLC/rlc

Enclosure: IRO Decision

### **Amended Independent Review Decision**

September 23, 2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3555-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### **CLINICAL HISTORY**

Mr. \_\_\_ was injured on \_\_\_ while working Wilson Office Works when he fell backwards approximately 5 feet, land on his back, sustaining injuries to the back and neck. He had a nosebleed

immediately following the accident. He went to the Emergency Room and was not seen. \_\_\_\_ presented to Dr. David Bailey, DC at Back and joint Clinic and was treated with passive therapies progressing to active therapies. Initial exam was on 9-12-2002 with diagnosis of cervical, thoracic, and lumbar sprain/strain and left knee sprain/strain. \_\_\_\_ returned to work light duty but could not tolerate so was taken off work on 9-16-2002.

\_\_\_\_ had an MRI of the Lumbar spine that demonstrated a bulge at L4/5 and a MRI of the left knee that demonstrated a bone contusion. He consulted with Dr. Randall Light, MD who also diagnosed \_\_\_\_ with left carpal tunnel syndrome and recommended splinting and anti-inflammatories.

\_\_\_\_ was returned to work light duty on 11-12-2002 but was again taken off on 12-09-2002 due to increased complaints. He continued to work on and off until 1-16-2003 when he returned to work light duty for four hours per day.

Examinations on 1-27-2003 noted that \_\_\_\_ had been consulted for a caudal ESI. This was performed on 4-29-2004 with improvement. \_\_\_\_ continued to work until 6-05-2003 when he had a severe exacerbation of his condition. Somewhere during that time, the treating doctor changed from Dr. David Bailey to Dr. John Wyatt, DC. He returned to Dr. Wyatt for evaluation on 6-6-2004.

Dr. Wyatt initiated passive therapies for the exacerbation and then added active therapies on 6-10-2003, notes from 6-11-2003 states he had about 4 hours relief from therapies.

On 6-16-2003 there is a new finding of radicular pain with pain increased in the lumbar spine. Active therapy was discontinued and passive therapies reintroduced. 6-17-2003 went to ER for extreme pain and was prescribed Vicodin, is now having loss of bladder control, was given toradol injection at ER. The 6/18/03 notes indicate a worsening of symptoms and active therapy was resumed.

Dr. Wyatt re-examined the patient on 6/27/03 with extensive ROM and muscle strength testing. The patient's pain scales remained at a 7/10. Review of the records indicates an approximate 50% decrease in function from previous ROM and MMT. A 99214 is billed with the expanded testing concurrently. On 7/2/03 a 99214 is billed for a report of findings. Therapies resumed on 7/3/03 with active and passive components. The treatment varies until 7/18/03 when Dr. Wyatt decides to have a repeat MRI and neurosurgical consultation. \_\_\_\_ returns on 7/31/03 after having a caudal ESI, he is adjusted with soft tissue release by Dr. Wyatt and returns the following week to begin therapy.

The carrier had denied all treatment after 6/18/03 through 7/31/03 stating unnecessary without peer review, treatment/service provided exceeds medically accepted UR criteria and/or reimbursement guidelines established for severity of injury, level, type, extent or frequency of services was not supported by documentation and/or the documentation does not support the services billed.

### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of office visits (99213 & 99214), therapeutic exercises (97110), group therapeutic exercises (97150), joint mobilization (97265), myofascial release (97250), thoracic range of motion measurement (95851), lumbar range of motion measurement (95851), muscle testing (97750-MT), electrical stimulation (97014), diathermy (97024), massage therapy (97124) and TENS consumable supplies (99070).

## DECISION AND BASIS FOR DECISION

The reviewer indicates that after thorough consideration of the records, the treatments including 97150, 97265, 97250, 97110 and 99213 for 6-19-2003 and 6-20-2003 are medically necessary until the examination on 6-27-2003 clearly determined that the previous 3 weeks of treatment had not improved \_\_\_\_' condition sufficiently to determine further treatment would likely result in any improvement. This is consistent with Rand Consensus Panel and Mercy Conference Guidelines.

The reviewer further supports the examination (99214) on 6/27/03. The reviewer notes that the ROM (95851) and MMT testing (97750-MT) is included within this code (99214) and therefore, not substantiated due to unbundling. \_\_\_\_ did not return to work after the FCE and considering he had just received Toradol injections from the ER. This indicates he was not likely ready for this type of examination after an intense exacerbation and high pain levels.

The Mercy Conference Guidelines state that standard treatment guidelines should be extended up to two times normal length with severe pain and superimposed injury such as the L4/5 disc as complications. The 6/27/03 is an appropriate end date for treatment as per these guidelines and the documented lack of improvement. This would mean that all therapies including 97150, 97265, 97250, 97110, 97014, 97024, 97124, TENS supplies 99070 and office visits 99213 or 99214 following 6-27-2003 are not medically necessary unless indicated as follows.

The office visit (99213) on 7-18-2003 is medically necessary due to the change in treatment plan as MRI and Neurosurgical consultations are discussed. Also, the office visits (99213) on 7-25-2003 and 7-31-2003 are medically necessary for monitoring the patient's condition and post-injection follow-up.

The myofascial release (97250) and joint mobilization (97265) on 7-31-2003 are not medically necessary due to increased symptoms and edema as a result of the injection. This would be a contraindication one-day post injection.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director